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Grant A. Johnson				
IBM Corporation, Dept. 917				
3605 Highway 52 North				
Rochester, MN 55901-7829				
			EXAMINER	
			SINGH, RACHNA	
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**BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES**

Application Number: 10/767,044
Filing Date: January 29, 2004
Appellant(s): HINTERMEISTER ET AL.

MAILED

SEP 13 2007

Technology Center 2100

Grant A. Johnson
For Appellant

EXAMINER'S ANSWER

This is in response to the appeal brief filed 06/01/07 appealing from the Office action
mailed 08/14/06.

(1) Real Party in Interest

A statement identifying by name the real party in interest is contained in the brief.

(2) Related Appeals and Interferences

The examiner is not aware of any related appeals, interferences, or judicial proceedings which will directly affect or be directly affected by or have a bearing on the Board's decision in the pending appeal.

(3) Status of Claims

The statement of the status of claims contained in the brief is correct.

(4) Status of Amendments After Final

The appellant's statement of the status of amendments after final rejection contained in the brief is correct.

(5) Summary of Claimed Subject Matter

The summary of claimed subject matter contained in the brief is correct.

(6) Grounds of Rejection to be Reviewed on Appeal

The appellant's statement of the grounds of rejection to be reviewed on appeal is correct.

(7) Claims Appendix

The copy of the appealed claims contained in the Appendix to the brief is correct.

(8) Evidence Relied Upon

2002/0089549	MUNRO et al.	06-2002
2005/0185055 A1	MILLER et al.	08-2005
2004/00490598 A1	TUCKER	03-2004

(9) Grounds of Rejection

The following ground(s) of rejection are applicable to the appealed claims:

Claim Rejections - 35 USC § 101

35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

Claims 16-21 are rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter.

The claims have no practical application of a judicial exception as claimed because there is no physical transformation and no production of a concrete, useful and tangible result. The claim fails to produce a tangible result because the computer readable media may be embodied on a signal bearing media as recited in Applicant's specification on page 3.

Further, claims that recite nothing but the physical characteristics of a form of energy, such as a frequency, voltage, or the strength of a magnetic field, define energy or magnetism, per se, and as such are nonstatutory natural phenomena. O'Reilly, 56 U.S. (15 How.) at 112-14. Moreover, it does not appear that a claim reciting a computer readable media such as a signal encoded with functional descriptive material falls within

any of the categories of patentable subject matter set forth in § 101. These interim guidelines propose that such signal claims are ineligible for patent protection because they do not fall within any of the four statutory classes of § 101. Consequently, the claims are nonstatutory.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1, 7-11, and 13-21 are rejected under 35 U.S.C. 102(b) as being anticipated by Munro et al., US 2002/0089549 A1, July 11, 2002.

In reference to claim 1, Munro teaches a method, apparatus, and system for accessing images from the Internet on a webpage where the web page is written in XML, the browser displays the image in the web page which meets the preamble **a method of displaying a web page**. See page 1, paragraphs [0003]-[0008]. Munro discloses the following:

-A multiple-image viewer supporting the display of multiple images. See figure 4, page 3, paragraphs [0029]-[0035], page 5, paragraph [0049]. Multiple images can make up a composition of thumbnail type images for simultaneous display in a browser window. See figure 4, page 1, paragraph [0008], page 3, paragraphs [0029]-[0035], page 5, paragraph [0049]. *Figure 2* shows a multiple-image viewer displaying four images together which meets the limitation, ***receiving a multi-image file, the multi-image file comprising a plurality of images adapted for cooperative display***. See figure 4, page 3, and page 5, paragraphs [0049]-[0050].

-Using standard HTML language to insert images into web pages from the multiple-image viewer. Images being displayed using a web browser a page description language such as XML or HTML defines how to display these images. Standard HTML allows images of various types to be inserted into a web page using the HTML tag "IMG" which meets the limitation ***receiving a web page containing markup language tag, the markup language tag comprising code specifying which of the plurality of images should be displayed; and displaying the web page***. See figures 2-5, page 3, paragraph [0029]-[0035] and page 1, paragraph [0004].

In reference to claim 7, Munro teaches storing multiple images in a single image file. The multiple images can make up a composition of thumbnail type images for simultaneous display in a browser window. See page 1, paragraph [0008]. The bitmap

image has a hierarchal system of folders associated with the bitmap image. See page 1, paragraph [0009]. Compare to "menu".

In reference to claim 8, Munro teaches the using standard HTML language to insert images into web pages. Images being displayed using a web browser a page description language such as XML or HTML defines how to display these images. Standard HTML allows images of various types to be inserted into a web page using the HTML tag "IMG". See page 3, paragraph [0029] and page 1, paragraph [0004].

In reference to claim 9, Munro teaches a method, apparatus, and system for accessing images from the Internet on a webpage where the web page is written in XML, the browser displays the image in the web page. See page 1, paragraphs [0003]-[0008]. Compare to **a web page**. Munro discloses the following:

-Storing multiple images in a single image file. The multiple images can make up a composition of thumbnail type images for simultaneous display in a browser window. See page 1, paragraph [0008]. *Figure 2* shows a multiple-image viewer displaying four images together which meets the limitation, **receiving a multi-image file, the multi-image file comprising a primary image and at least one secondary image adapted for cooperative display**. See figure 4, page 3, and page 5, paragraphs [0049]-[0050].

-Using standard HTML language to insert images into web pages. Images being displayed using a web browser a page description language such as XML or HTML

defines how to display these images. Standard HTML allows images of various types to be inserted into a web page using the HTML tag "IMG" which meets the limitation, ***receiving a web page containing markup language tag, the markup language tag comprising code specifying which of the plurality of images should be displayed.*** See page 3, paragraph [0029] and page 1, paragraph [0004].

In reference to claims 10-11, Munro discloses allowing images of various types to be inserted into a web page using the HTML tag "IMG". See page 3, paragraph [0029] and page 1, paragraph [0004]. In one embodiment, the request for data is performed using a HTTP 'GET' command that specifies the URL of each image (i.e. descriptor or image name). In an embodiment, the default is to obtain the entire full size image (default size).

In reference to claim 13, Munro teaches a method, apparatus, and system for accessing images from the Internet on a webpage where the web page is written in XML, the browser displays the image in the web page. See page 1, paragraphs [0003]-[0008]. Compare to ***a method for displaying images***. Munro discloses the following:
-Storing multiple images in a single image file. The multiple images can make up a composition of thumbnail type images for simultaneous display in a browser window. See page 1, paragraph [0008]. Compare to ***"receiving a multi-image file, the multi-image file comprising a primary image and at least one secondary image;"***

-Using standard HTML language to insert images into web pages. Images being displayed using a web browser a page description language such as XML or HTML defines how to display these images. Standard HTML allows images of various types to be inserted into a web page using the HTML tag "IMG". See page 3, paragraph [0029] and page 1, paragraph [0004]. Compare to ***"selecting an image for display from the multi-image file; and displaying the selected image"***.

In reference to claims 14-15, Munro discloses allowing images of various types to be inserted into a web page using the HTML tag "IMG". See page 3, paragraph [0029] and page 1, paragraph [0004]. In one embodiment, the request for data is performed using a HTTP 'GET' command that specifies the URL of each image (i.e. descriptor or image name). In an embodiment, the default is to obtain the entire full size image (default size).

In reference to claim 16, Munro teaches the multiple-image viewer also relates to apparatus for performing the operations herein. This apparatus may be specially constructed for the required purposes, or it may comprise a general purpose computer selectively activated or reconfigured by a computer program stored in the computer. Such a computer program may be stored in a computer readable storage medium, such as, but is not limited to, any type of disk including floppy disks, optical disks, CD-ROMs, and magnetic-optical disks, read-only memories (ROMs), random access memories

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(RAMs), EPROMs, EEPROMs, magnetic or optical cards, or any type of media suitable for storing electronic instructions, and each coupled to a computer system bus. Munro teaches a method, apparatus, and system for accessing images from the Internet on a webpage where the web page is written in XML, the browser displays the image in the web page. See page 1, paragraphs [0003]-[0008]. Compare to ***a program configured to perform a method for rendering images in a computer system***. Munro discloses the following:

-Storing multiple images in a single image file. The multiple images can make up a composition of thumbnail type images for simultaneous display in a browser window. See page 1, paragraph [0008]. *A file structure comprises a series of sub-images, each one being a predetermined portion of the size of its predecessor which meets the limitation, ***receiving a multi-image file, the multi-image file comprising a plurality of images including a primary image and at least one secondary image****. See page 5, paragraphs [0049]-[0050].

-Using standard HTML language to insert images into web pages. Images being displayed using a web browser a page description language such as XML or HTML defines how to display these images. Standard HTML allows images of various types to be inserted into a web page using the HTML tag "IMG". See page 3, paragraph [0029] and page 1, paragraph [0004]. Compare to ***"selecting an image for display from the multi-image file; and displaying the selected image"***.

- Portions of the detailed descriptions which follow are presented in terms of algorithms and symbolic representations of operations on data bits within a computer memory.

These algorithmic descriptions and representations are the means used by those skilled in the data processing arts to most effectively convey the substance of their work to others skilled in the art. An algorithm is here, and generally, conceived to be a self-consistent sequence of steps leading to a desired result. The steps are those requiring physical manipulations of physical quantities. Usually, though not necessarily, these quantities take the form of electrical or magnetic signals capable of being stored, transferred, combined, compared, and otherwise manipulated. It has proven convenient at times, principally for reasons of common usage, to refer to these signals as data bits, values, elements, symbols, characters, terms, numbers, or the like. See page 2, paragraphs [0022]-[0025]. Compare to ***“a signal bearing media bearing the program”***.

In reference to claim 17, Munro teaches a method, apparatus, and system for accessing images from the Internet on a webpage where the web page is written in XML, the browser displays the image in the web page. See page 1, paragraphs [0003]-[0008].

In reference to claim 18, Munro teaches portions of the detailed descriptions are presented in terms of algorithms and symbolic representations of operations on data bits within a computer memory. These algorithmic descriptions and representations are

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the means used by those skilled in the data processing arts to most effectively convey the substance of their work to others skilled in the art. An algorithm is here, and generally, conceived to be a self-consistent sequence of steps leading to a desired result. The steps are those requiring physical manipulations of physical quantities. Usually, though not necessarily, these quantities take the form of electrical or magnetic signals capable of being stored, transferred, combined, compared, and otherwise manipulated. It has proven convenient at times, principally for reasons of common usage, to refer to these signals as data bits, values, elements, symbols, characters, terms, numbers, or the like. It should be borne in mind, however, that all of these and similar terms are to be associated with the appropriate physical quantities and are merely convenient labels applied to these quantities. Unless specifically stated otherwise as apparent from the following discussion, it is appreciated that throughout the description, discussions utilizing terms such as "processing" or "computing" or "calculating" or "determining" or "displaying" or the like, refer to the action and processes of a computer system, or similar electronic computing device, that manipulates and transforms data represented as physical (electronic) quantities within the computer system's registers and memories into other data similarly represented as physical quantities within the computer system memories or registers or other such information storage, transmission or display devices. See page 2, paragraphs [0022]-[0025].

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In reference to claims 19 and 21, Munro teaches Images can be placed in separate layers; the upper layer will overlay the lower one when there is an overlap. See page 4-5, paragraph [0044].

In reference to claim 20, Munro discloses that the multiple-image viewer allows multiple images to be displayed wherein the images are in alternate versions. See pages 2-3.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 5-6 are rejected under 35 U.S.C. 103(a) as being unpatentable over Munro et al., US 2002/0089549 A1, July 11, 2002 in view of Miller et al., US 2005/0185055 A1, 08/25/05 (filed 12/08/00).

In reference to claims 5-6, Munro does not teach the event is a mouse-over event; however, Miller does. Miller teaches user instructions are also displayed, to tell

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the user to click on the "nicest looking" small picture, which then appears in the preferred image window. The user uses a standard input device, such as the mouse, to make this selection in block. For example, if the user preferred the appearance of the image with lower than normal contrast, the user would click on image. In response, the CPU would update the display on the display monitor so that the image displayed in preferred image window had lower than normal contrast, matching the contrast of the selected image, and move the indicator to surround image. At this point, the user can select a different image from among images, in order to display images with other appearances as large images in the preferred image window, or the user can select the "done" icon. See page 4, paragraph [0036]. It would have been obvious to a person of ordinary skill in the art at the time of the invention to incorporate a mouse-over event as a means for displaying a second image because it enables interactive functions to be used by the user allowing them to carry out image manipulations. See page 4, paragraph [0036].

Claims 2-4 and 12 are rejected under 35 U.S.C. 103(a) as being unpatentable over Munro et al., US 2002/0089549 A1, July 11, 2002 in view of Tucker et al., US 2004/0049598 A1, 03/11/04 (filed 02/23/01).

In reference to claims 2-4 and 12, Munro does not teach an information header containing an image name for each image; however, Tucker discloses an image data header. See figure 12, 1216. The image data header supports multiple images of

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multiple types. The image descriptor follows the image header and describes the image data. See pages 7-8, paragraphs [0058]-[0061]. It would have been obvious to a person of ordinary skill in the art at the time of the invention to incorporate Tucker's image header in the system of Munro as it provides information about images located in the file in a manner that is efficient and quickly visible. See abstract and pages 7-8, paragraphs [0058]-[0061].

(10) Response to Argument

Appellant's arguments begin on page 13 of the Brief. On pages 13-14, Appellant argues "Group 1", including claims 1-21, is not anticipated by the prior art reference. Appellant argues the cited reference, Munro does not teach multiple, independent images in a single file. Examiner respectfully disagrees. Figures 2 and 4 depict a single image file comprised of multiple, independent images, 208, 210, 212, and 214. As further evidence of the fact that these images are indeed independent, Examiner points to page 3, paragraph [0035] which recites, ***"each displayed image has a separate and independent data file"***. Therefore, Munro teaches a single image file containing multiple, independent images. This multi-image file of Munro is used in displaying images within a webpage as disclosed in figure 2 and discussed on page 3 of the reference. Using tags within an HTML language or other language, the images of the multiple-image viewer can be inserted into a webpage. See page 3.

On pages 14-15, Appellant argues Munro does not teach the multiple, independent images are adapted for cooperative display, nor constitute complementary layers, nor overlay the primary image. Examiner respectfully disagrees. Munro discloses cooperative display of the images in figures 2 and 4 as well as page 3, paragraphs [0029]-[0035], and page 5, paragraph [0049]-[0050]. Munro further discloses a primary and secondary image comprise complementary layers on page 4, paragraph [0044]. Figure 5 represents "a secondary image overlays the primary image". The overlay feature is also discussed in paragraph [0044] on page 4. It is noted, the Appellant's arguments with respect to Group 2 fail to comply with 37 CFR 1.111(b) because they amount to a general allegation that the claims define a patentable invention without specifically pointing out how the language of the claims patentably distinguishes them from the references.

On pages 15-16, Appellant argues claims 16-21 are statutory. Examiner disagrees. A claim to a computer readable media including a signal bearing a computer program is not statutory. A claim reciting a computer readable media such as a signal encoded with functional descriptive material does not fall within any of the categories of patentable subject matter set forth in § 101. The interim guidelines propose that such signal claims are ineligible for patent protection because they do not fall within any of the four statutory classes of § 101. Consequently, the claims are nonstatutory.

In view of the comments above, it is believed the rejections should be maintained.

(11) Related Proceeding(s) Appendix

No decision rendered by a court or the Board is identified by the examiner in the Related Appeals and Interferences section of this examiner's answer.

For the above reasons, it is believed that the rejections should be sustained.

Respectfully submitted,



Rachna Singh

Conferees:



Doug Hutton
SPE, Art Unit 2176

William Bashore
Primary Examiner, Art Unit 2176


**WILLIAM BASHORE
PRIMARY EXAMINER**